

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Frederick Dewayne Hines,

Case No. 23-cv-2692 (ECT/DJF)

Plaintiff,

v.

**REPORT AND  
RECOMMENDATION**

State of Minnesota; County of Washington; City of Stillwater; City of Bayport; Paul Schnell; Michele Smith; Nannette Larson; William Bolin; Guy Bosch; Sherlinda Wheeler; Marisa Williams; Unknown Otoo; Kathy Reid; Sue Norton; Jenny Carufel; Chris Pawelk; Stephan Craane; T. Weeks; Unknown Connors; Unknown Darling; D. Kenyon; Joan Wolff; Bronson Austreng; Rachel Culver; Abby Domagalski; Amber Swanson; Unknown Demay; Unknown Detsch; Genet Ghebre; Unknown Nyemah; Steve McCarty; Unknown Herrington; Adam Perry; Unknown Hennen; Unknown Ozzello; Unknown Spets; Chad Mercure; Matthew Johnson; J. Ecker; Unknown Ramussen; Unknown Grandy; Unknown Willard; Unknown Bune; Gary Scott; Unknown Giraud; J. Deveny-Leggit; Unknown Zigglar; Unknown Stevenson; Unknown Lewis; and Minnesota Department of Corrections, Central Office;

Defendants.

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In an order dated October 6, 2023 (“October Order”) (ECF No. 4), the Court directed Plaintiff Frederick Dewayne Hines to submit an amended pleading addressing joinder problems in his original complaint (ECF No. 1). The Court gave Mr. Hines until

November 3, 2023 to comply with its October Order, failing which the Court would recommend dismissing this action without prejudice under Federal Rule of Civil Procedure 41(b), for failure to prosecute. (*See* ECF No. 4 at 5.)

That deadline has now passed and Mr. Hines has not submitted an amended pleading or communicated with the Court in any way at all. Accordingly, the Court now recommends, in accordance with its October Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Given this recommendation, the Court further recommends that Mr. Hines’ pending IFP application (ECF No. 3) be denied as moot.

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein,

**IT IS HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and
2. Plaintiff Frederick Dewayne Hines’ Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3) be **DENIED** as moot.

Dated: November 30, 2023

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge

## NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).